

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ORDER

Before the Court for consideration is Defendant Jeffrey Thomas Comstock's Motion to Suppress (Doc. #34), filed on June 1, 2009. On January 21, 2010, the Honorable Robert Johnston United States Magistrate Judge, entered a Report and Recommendation (Doc. #71) recommending that Defendant Comstock's motion to suppress be denied. On January 29, 2010, Defendant filed an Objection thereto (Doc. #76). On April 19, 2010, the Court conducted a hearing on Defendant's objections.

On June 1, 2009, Defendant Comstock filed a Motion to Suppress Evidence Seized in Traffic Stop (Doc. #34). The Court finds that the evidence adduced before Magistrate Judge Johnston does not demonstrate that Defendant Comstock was detained for an unreasonably prolonged period of time prior to being asked for and giving consent to search the vehicle he was driving. The Court further finds that the evidentiary record developed before Magistrate Johnston does not

1 show that Defendant Comstock was visibly intoxicated or under the influence of
2 drugs at the time he gave consent to search the vehicle or at the time he waived his
3 Miranda rights. The Court has conducted a de novo review of the record in this case
4 in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-2 and determines
5 that Magistrate Johnston's Report and Recommendation should be affirmed and
6 Defendant Comstock's Objection thereto (Doc. #76) should be overruled. In
7 addition, Defendant's Motion to Suppress (Doc. #34) should be denied.

8 **IT IS THEREFORE ORDERED** that Magistrate Judge Johnston's
9 Report and Recommendation (Doc. #71) is **AFFIRMED**.

10 **IT IS FURTHER ORDERED** that Defendant Comstock's Objection to
11 Magistrate Johnston's Report and Recommendation (Doc. #76) is **OVERRULED**.

12 **IT IS FURTHER ORDERED** that Defendant Comstock's Motion to
13 Suppress Evidence Seized in Traffic Stop (Doc. #34) is **DENIED**.

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15 DATED: April 22, 2010.

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18 PHILIP M. PRO
United States District Judge

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